

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Gallatin Property Assoc., G.P.)
Dist. 4, Map 136, Control Map 136, Parcel 37.00,) Sumner County
S.I. 000)
Residential Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,499,400	\$ -0-	\$1,499,400	\$374,850

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 6, 2007 in Gallatin, Tennessee. In attendance at the hearing were registered agent L. Stephen Nelson and Sumner County Property Assessor's representative Jesse Denton.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 7.24 acre tract located at 801 Browns Lane behind the new Lowes Home Center at 1301 Nashville Pike in Gallatin, Tennessee.

The taxpayer contended that subject property should be valued at \$1,029,400. The taxpayer's position was concisely summarized on page 3 of exhibit 1 as follows:

... At the time the site for the Lowes Center was graded, fill was placed onto the subject land from the Lowes' site. This fill was not compacted properly and before anything can be built on the subject land, 12 feet of fill must be removed, re-compacted and more fill added to it to make the site buildable. The estimated cost to complete this is \$470,000. We agree that, if the site were buildable, the current value would be acceptable and is supported by sales of other developments in the area; however, due to the fact that it will cost the owners a minimum of approximately \$470,000 to get this site ready to build, we request a value of approximately \$1,029,400.

The assessor contended that subject property should be valued at \$1,499,400. In support of this position, Mr. Denton stated that he actually did not dispute the taxpayer's proof. However, Mr. Denton believed that Sumner County was unfairly being made to incur the cost of "getting [subject] property ready to build."

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values ..."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,029,400 as contended by the taxpayer.

Since the taxpayer is appealing from the determination of the Sumner County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer introduced a prima facie case which was not rebutted by the assessor of property. Indeed, the assessor did not contest the taxpayer's analysis insofar as the issue of market value was concerned. Respectfully, the administrative judge finds that the fair market value of subject property as of January 1, 2006 constitute the relevant issue. The administrative judge finds that the taxpayer's proof was unrefuted and must therefore be adopted as the basis of valuation.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,029,400	\$ -0-	\$1,029,400	\$257,350

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

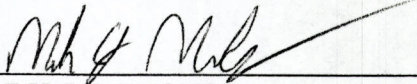
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 8th day of February, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. L. Stephen Nelson
John C. Isbell, Assessor of Property